

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with Thomas Spinelli (Reg. No. 39,533) on 12/20/10 and 2/17/11.
3. Claims 10-15 are canceled by this Examiner's amendment.

### ***Election/Restrictions***

4. Claim 1 allowable. The restriction requirement, as set forth in the Office action mailed on 1/17/2007, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 2-5, 8 and 9, directed to Species 2, Figs. 15A-16D, no longer withdrawn from consideration because the claims require all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

***Allowable Subject Matter***

5. Claims 1-9, 16 and 18-24 are allowed.
6. The following is an examiner's statement of reasons for allowance: The prior art of record does not appear to disclose or suggest a motivation to combine forceps, comprising, inter alia:

A tubular sheath; a tip cover positioned on a distal end of the tubular sheath, the tip cover having a pair of forceps, each of which rocks individually around a respective first rocking axis corresponding thereto; the tip cover further having a proximal end portion having a circular cross section perpendicular to a longitudinal central axis of the circular cross section and a pair of parallel flat portions symmetrically formed on an external surface of the distal end portion, the pair of parallel flat portion being in sliding contact with respective proximal end portions of the forceps; **and especially,**

a pair of manipulators which advance and retreat along the longitudinal central axis of the tubular sheath, thereby rocking the forceps around the first rocking axis; and a pair of junctions which respectively connect the manipulators for rocking motion around a second rocking axis to the forceps in the flat portions, the junctions being situated substantially on a reference plane

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containing the longitudinal axis of the tubular sheath and extending parallel to the second rocking axis, when the operating section is closed; wherein the first rocking axis of each forceps is not on the reference plane when the operating section is closed.

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUAN V. NGUYEN whose telephone number is (571)272-5962. The examiner can normally be reached on M-F: 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, AnhTuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. V. N./  
Examiner, Art Unit 3731

/(Jackie) Tan-Uyen T. Ho/  
Supervisory Patent Examiner, Art Unit 3773